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6 Attorneys for Defendant  
KARREN HENDRIX STAGG ALLEN & COMPANY, P.C.

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 GREGORY R. RAIFMAN, individually )  
10 and as Trustee of the RAIFMAN )  
FAMILY REVOCABLE TRUST )  
11 DATED 7/2/03, SUSAN RAIFMAN, )  
individually and as Trustee of the )  
12 RAIFMAN FAMILY REVOCABLE )  
TRUST DATED 7/2/03, and GEKKO )  
13 HOLDINGS, LLC, an Alaska limited )  
liability company, dba GEKKO )  
14 BREEDING AND RACING, )

15 Plaintiffs,

16 vs.

17 CLASSICSTAR, LLC, a Utah limited )  
liability company, CLASSICSTAR )  
18 FARMS, LLC, a Kentucky limited liability )  
company, BUFFALO RANCH, a business )  
entity form unknown, GEOSTAR )  
19 CORPORATION, a Delaware )  
corporation, S. DAVID PLUMMER, )  
20 SPENCER D. PLUMMER III, TONY )  
FERGUSON, THOMAS ROBINSON, )  
21 JOHN PARROT, HANDLER THAYER )  
& DUGGAN, LLC, an Illinois Limited )  
22 Liability Company, THOMAS J. )  
HANDLER, KARREN, HENDRIX, )  
23 STAGG, ALLEN & COMPANY, P.C., a )  
Utah professional corporation f/k/a )  
24 KARREN, HENDRIX & ASSOCIATES, )  
P.C., a Utah professional corporation, )  
25 TERRY L. GREEN, and DOES 1-1000 )  
inclusive, )

26 Defendants.  
27  
28

CASE NO. C 07 2552 MJJ

KARREN HENDRIX, STAGG, ALLEN  
& COMPANY, P.C.'S ANSWER TO  
COMPLAINT; DEMAND FOR JURY  
TRIAL

1 Defendant KARRER HENDRIX STAGG ALLEN & COMPANY, P.C., in  
2 responding to the allegations of the complaint on file herein admits, denies and alleges as  
3 follows:

4 This responding defendant admits the allegations of paragraphs 28, 29, 164, 185,  
5 186, 187, 192, 193 and 194.

6 This responding defendant denies the allegations of paragraphs 125, 135, 136, 146,  
7 147, 154, 161, 190, 199, 208 and 219.

8 This responding defendant denies the allegations of paragraphs 1, 2, 6, 33, 35, 36, 37,  
9 38, 39, 40, 41, 42, 49, 50, 51, 52, 54, 57, 58, 59, 60, 62, 64, 66, 67, 68, 69, 71, 72, 73, 74, 75, 79,  
10 80, 88, 89, 91, 92, 101, 102, 103, 104, 105, 106, 110, 113, 114, 115, 116, 117, 118, 119, 120,  
11 121, 122, 123, 127, 128, 129, 130, 131, 132, 139, 140, 141, 142, 149, 150, 163, 166, 167, 168,  
12 171, 172, 173, 175, 176, 177, 180, 182, 183, 188, 189, 195, 196, 197, 198, 201, 202, 203, 205,  
13 206, 210, 211, 212, 213, 214, 215, 216 and 218 on information and belief.

14 This responding defendant lacks information or belief sufficient to answer the  
15 allegations in paragraphs 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,  
16 24, 25, 26, 27, 30, 31, 32, 34, 43, 44, 45, 46, 47, 48, 53, 55, 56, 61, 63, 65, 70, 76, 77, 78, 81, 82,  
17 83, 84, 85, 86, 87, 90, 93, 94, 95, 96, 97, 98, 99, 100, 107, 108, 111, 112, 133, 134, 143, 144,  
18 145, 151, 152, 153, 156, 157, 158, 159, 160, 165, 170, 178, 204, 207 and 217, and basing its  
19 denial on this ground, denies each and every allegation thereof.

20 To the extent plaintiffs have incorporated by reference the allegations of certain  
21 paragraphs and causes of action of their complaint into paragraphs 109, 126, 137, 148, 155,  
22 162, 169, 174, 179, 181, 184, 191, 200, and 209 of their complaint, these responding  
23 defendants incorporate by reference each and every denial, allegation, defense or objection  
24 made to such incorporated allegations in the complaint, and incorporates them in their  
25 response to paragraphs 109, 126, 137, 148, 155, 162, 169, 174, 179, 181, 184, 191, 200, and  
26 209 of the complaint.

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**AFFIRMATIVE DEFENSES**

AS SEPARATE AND DISTINCT AFFIRMATIVE DEFENSES TO THE COMPLAINT AND EACH AND EVERY CAUSE OF ACTION THEREOF, this answering defendant alleges:

1. That the complaint and/or each of the causes of action therein fails to allege facts sufficient to state a or any claim of relief or cause of action against this answering defendant.
2. That the incidents complained of were proximately caused and/or contributed to by the sole or concurrent negligence and/or acts or omissions of persons or entities other than this answering defendant, including plaintiffs herein. Defendant therefore prays that the court compare the negligence and/or acts or omissions of all persons, firms, corporations and/or entities of any kind which proximately caused or contributed to the incidents complained of herein and the injuries, if any, sustained by plaintiffs herein, and that the court award damages, if any, against this answering defendant only in proportion to its percentage of fault, if any.
3. That plaintiffs' complaint, and each cause of action therein, is barred by the provisions of the applicable statutes of limitation, in particular but not limited to, Code of Civil Procedure Sections 335.1, 337, 337.1, 338, 339, 340, 340.10 and/or 343.
4. That plaintiffs were themselves negligent in and about the matters alleged in the complaint, and that said negligence of plaintiffs was the sole and/or partial proximate cause of their damages herein, if any there were.
5. That the sole and/or partial proximate cause of the allegedly actionable incidents and/or damage complained of in plaintiffs' complaint herein was due to the negligence and/or other misconduct of other persons or entities for whom this defendant is not responsible. Plaintiffs' recovery herein, if any, should therefore be barred, reduced or apportioned in accordance with the degree of responsibility of those other persons or entities for the damages complained of herein.

- 1 6. That plaintiffs themselves assumed the risk, if any there were, at the times and  
2 places of the incidents referred to in their complaint, and that whatever conditions  
3 were at said times and places, said conditions were obvious, clearly discernable and  
4 in fact known to plaintiffs, and that said assumption of risk resulted in the plaintiffs'  
5 injuries, if any.
- 6 7. That plaintiffs' complaint is barred because of, and/or their right to recover is  
7 diminished in proportion to, plaintiffs' failure to mitigate their damages, if any there  
8 were.
- 9 8. That the injuries complained of by plaintiffs, if any, were proximately caused by  
10 some other incident or happening than what has been pleaded, and/or by some other  
11 tortfeasor.
- 12 9. That plaintiffs were themselves guilty of a breach of contract or other misconduct  
13 which would preclude a right of recovery herein.
- 14 10. That plaintiffs' complaint, and each cause of action therein, fails to state facts  
15 sufficient to constitute a cause of action for punitive or exemplary damages against  
16 this answering defendant, and further, that plaintiffs' purported claim for punitive or  
17 exemplary damages violates this answering defendant's rights to due process and  
18 equal protection as guaranteed by the Fourteenth Amendment of the United States  
19 Constitution and other applicable law, in that, among other things, neither  
20 California Civil Code Section 3294 nor any other allegedly applicable provision of  
21 state substantive law provides for (1) an adequate or meaningful standard for  
22 determining the nature of the conduct upon which an award of punitive damages  
23 may be based or for determining or reviewing the amount of a punitive damage  
24 award; (2) adequate procedural safeguards for the imposition of punitive damages  
25 upon the presentation of evidence beyond a reasonable doubt; or (3) unanimity of  
26 jurors as to the punitive damage portion of any adverse verdict or judgment.
- 27 11. That plaintiffs' complaint, and each cause of action therein, fails to state facts  
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- 1 sufficient to constitute a cause of action for attorney's fees against this answering  
2 defendant.
- 3 12. That plaintiffs' complaint, and each cause of action therein, is barred by the doctrine  
4 of laches.
- 5 13. That plaintiffs' complaint, and each cause of action therein, is barred by the doctrine  
6 of unclean hands.
- 7 14. That plaintiffs, by their conduct, have waived their rights under each alleged  
8 contract or agreement.
- 9 15. That plaintiffs, by their conduct, are estopped to enforce the provisions of each  
10 alleged contract or agreement.
- 11 16. That plaintiffs' complaint, and each cause of action therein, fails to state facts  
12 sufficient to constitute a cause of action for breach of contract on the grounds that  
13 the alleged agreement(s) are unenforceable under the provisions of Civil Code  
14 Section 1624.
- 15 17. That plaintiffs' claims are barred in that the conduct of this answering defendant was  
16 at all times reasonable, privileged, and in good faith under the circumstances.
- 17 18. That plaintiffs' claims are barred by the doctrine of consent.
- 18 19. That plaintiffs' claims for damages and all other relief are barred by the doctrine of  
19 acquiescence.
- 20 20. That by conduct, representations and omissions, plaintiffs have waived, relinquished  
21 and/or abandoned, and are equitably estopped to assert, any claim for relief against  
22 this answering defendant respecting the matters that are the subject of the  
23 complaint.
- 24 21. That plaintiffs' claims for damages and all other relief are barred because defendant  
25 substantially performed the contract or contracts alleged in the complaint, or any  
26 contract there may have been.
- 27 22. That plaintiffs' claims for damages and all other relief are barred because defendant  
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1 fully performed all terms and conditions of the contract or contracts alleged in the  
2 complaint, or any contract there may have been.

3 23. That plaintiffs' claims for damages and all other relief are barred because  
4 performance of the contract or contracts alleged herein has become impossible or  
5 totally impracticable through no fault of this defendant and, accordingly, plaintiffs'  
6 claim is without merit.

7 24. That plaintiffs did not exercise ordinary care, caution and prudence in connection  
8 with the transactions and events that are alleged in the complaint; plaintiffs' lack of  
9 care, caution and prudence were independent and unrelated to the actions, if any, of  
10 this answering defendant. Moreover, plaintiffs directed, ordered, approved and/or  
11 ratified the alleged wrongful acts set forth in the complaint. Plaintiffs are therefore  
12 barred from recovery against this answering defendant, or, alternatively, plaintiff's  
13 recovery, if any, should be proportionately reduced.

14 25. That through no fault of the defendant, the purposes of the contract or contracts  
15 alleged herein have been fundamentally frustrated and defeated, and accordingly,  
16 plaintiffs' claim is without merit.

17 26. That the complaint and any recovery thereunder is barred by reason of the  
18 provisions of sections 1567, 1576, 1577 and 1578 of the Civil Code and related law  
19 regarding mistake of fact and law.

20 27. That plaintiffs are barred from recovering any damages or other relief by reason of  
21 failure of consideration that defeats the effectiveness of the contract or contracts  
22 alleged between the parties.

23 28. That plaintiffs are barred from recovering any damages or other relief by reason of  
24 the lack or inadequacy of consideration that defeats the effectiveness of the contract  
25 or contracts alleged between the parties.

26 29. That any and all conduct of which plaintiffs complain which is attributable to this  
27 answering defendant, or its agents or employees, was a just and proper exercise of  
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1 management discretion or business judgment, which under the circumstances then  
2 existing was undertaken for fair and honest reasons, in good faith.

3 30. That plaintiffs acknowledged, ratified, consented to and/or acquiesced in the alleged  
4 acts or omissions attributed to this answering defendant herein, barring plaintiffs  
5 from any relief based on said alleged acts or omissions.

6 31. That plaintiffs' complaint and each cause of action therein is barred in that this  
7 answering defendant owed no duty to plaintiffs as alleged herein.

8 32. That plaintiffs have failed to exhaust all administrative remedies required by law  
9 before filing this complaint, and therefore the complaint, and each cause of action  
10 thereof, is barred.

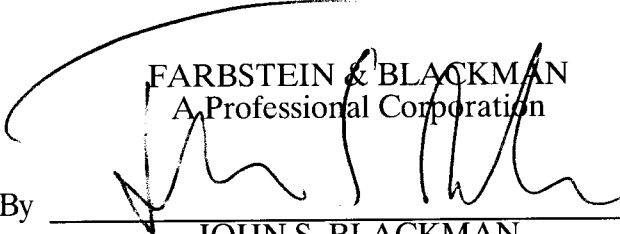
11 This answering defendant has insufficient knowledge or information on which to  
12 form a belief as to whether it may have additional, as yet unstated affirmative defenses  
13 available, and therefore this answering defendant reserves the right to assert additional  
14 affirmative defenses in the event subsequent knowledge or information indicates such  
15 defenses may be available or appropriate.

16 WHEREFORE, this answering defendant prays that plaintiffs take nothing by their  
17 complaint, and for recovery of costs of suit incurred herein, and for such other and further  
18 relief as the court deems proper.

19 **DEMAND FOR JURY TRIAL**

20 Defendant KARRIN HENDRIX STAGG ALLEN & COMPANY, P.C. hereby  
21 demands a jury trial.

22 DATED: August 3, 2007

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24  
25 By   
26 FARBSTEIN & BLACKMAN  
A Professional Corporation  
27 JOHN S. BLACKMAN  
Attorneys for Defendant  
KARRIN HENDRIX STAGG  
ALLEN & COMPANY, P.C.



**PROOF OF SERVICE****Raifman Family Trust v. ClassicStar, LLC, et al.****USDC Northern District of California, Case No. C-07-2552 MJJ**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is 411 Borel Avenue, Suite 425, San Mateo, California 94402-3518. On August 3, 2007, I served the following document(s):

**KARREN HENDRIX, STAGG, ALLEN & COMPANY, P.C.'S ANSWER TO COMPLAINT; DEMAND FOR JURY TRIAL**

on the following person(s) by the method(s) indicated below:

Richard J. Idell, Esq. Idell & Seitel, LLP Merchants Exchange Building 465 California Street, Suite 300 San Francisco, CA 94104	Attorneys for Plaintiffs Tel: (415)986-2400 Fax: 1-415-392-9259 email: <a href="mailto:richard.idell@idellseitel.com">richard.idell@idellseitel.com</a>
Vanessa Avril Imberg, Esq. Stoel Rives LLP 111 Sutter Street, Suite 700 San Francisco, CA 94104	Attorneys for Defendant Strategic Opportunity Solutions, LLC, dba Buffalo Ranch Tel: 415-617-8993 Fax: 415-676-3000 Email: <a href="mailto:vaimberg@stoel.com">vaimberg@stoel.com</a>
Fred M. Blum, Esq. Bassi Martini Edlin & Blum LLP 351 California Street, Suite 200 San Francisco, CA 94104	Attorneys for defendant Classicstar Farms, LLC Tel: (415) 397-9006 email: <a href="mailto:fblum@bmeblaw.com">fblum@bmeblaw.com</a>
Edward Charles Duckers, Esq. Stoel Rives LLP 111 Sutter Street, Suite 700 San Francisco, CA 94104	Attorneys for defendant Spencer D. Plummer, III Tel: (415) 617-8900 email: <a href="mailto:ECDuckers@stoel.com">ECDuckers@stoel.com</a>
Ronald Sim, Esq. Jason Crowell, Esq. Stoel Rives LLP 600 University Street, Suite 3600 Seattle, WA 98101	Attorneys for Defendants Strategic Opportunity Solutions, LLC, dba Buffalo Ranch and Spencer D. Plummer, III Sim Tel: 206-386-7592 Crowell Tel: 206-386-7526 FAX: 206-386-7500

☐ by transmitting via facsimile on this date from fax number (650) 554-6240 the document(s) listed above to the fax number(s) set forth herein. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report is attached to this proof of service. Service by fax was made by agreement of the parties confirmed in writing.

☒ by placing the document(s) listed above in a sealed envelope(s) with postage thereon fully prepaid, for deposit in the United States mail at San Mateo, California addressed as set forth herein. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with



1 the U.S. Postal Service on that same day, with postage thereon fully prepaid in the  
2 ordinary course of business.

3 [ ] by placing the document(s) listed above in a sealed envelope(s) and by causing personal  
4 delivery of the envelope(s) to the person(s) at the address(es) set forth herein. Signed  
proof of service by the process server or delivery service is attached to this proof of  
service.

5 [ ] by personally delivering the document(s) listed above to the person(s) at the  
6 address(es) set forth herein.

7 [ ] by placing the document(s) listed above in a sealed envelope(s) and consigning it to an  
8 express mail service for guaranteed delivery on the next business day following the date  
of consignment to the address(es) set forth herein. A copy of the consignment slip is  
attached to this proof of service.

9 [X] by transmitting the document(s) listed above via the Court's ECF system to the persons  
10 at the email address(es) set forth herein.

11 I declare under penalty of perjury under the laws of the United States and the State of  
12 California that the above is true and correct. Executed at San Mateo, California, on August  
3, 2007.

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14 SUZANNE T. FARBSTEIN  
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